IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

Crl.Rev.Pet.No. 704 of 1999()

CRA.232/1996 of SESSIONS COURT, THRISSUR DT.2.7.1999.
ST.437/1995 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR DT.31.7.1996
.....

REVN. PETITIONER: APPELLANT/ ACCUSED

R.VENKIDESAN, S/O.RAMANCHETTIAR,
DOOR NO.28, BHARATHI NAGAR,
III STREET, RAMANATHAPURAM,
OTHULUR, COIMBATORE.

BY ADV. SRI.P.VIJAYA BHANU

RESPONDENT/ RESPONDENT / COMPLAINANT

STATE OF KERALA, REP.BY PUBLIC PROSECUTOR,
HIGH COUR OF KERALA, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.S.DILIP

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.RP. NO.704/1999

ORDER ON CRL.MP. 3119/1999 IN CRL.R.P 704/1999

DISMISSED

27.06.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

tss

K.R. UDAYABHANU, J.

CRL.R.P. NO.704 of 1999

Dated this the 27th day of June, 2007

ORDER

The revision petitioner stands convicted for the offences under sections 279 and 338 IPC and sentenced to undergo rigorous imprisonment for one month for the offence under section 279 IPC and to pay a fine of Rs.1000/- and in default to undergo R.I for one month; and sentenced to undergo rigorous imprisonment for a period of one month for the offence under section 338 IPC and to pay a fine of Rs.1000/- and in default to udergo R.I for one month.

2. The prosecution case is that on 29-1-1995, at about 11 a.m the accused drove Tempo van bearing Regn.No.TN.37.F.3259 in a rash and negligent manner so as to endanger human life along the Thrissur - Palakkad Highway from east to west and hit on a stationary motor cycle which PW-1, the de facto complainant had stopped to cross the road.

3. The evidence adduced in the matter consisted of the testimony of PWs 1 to 7 and Exts.P1 to P6.

4. PW-1 sustained fracture of the right femur. It is proved from the evidence of PW-7, the AMVI and the report filed by him

vide Ext.P5 that the tempo van had no mechanical defect. As per the scene mahazar, the incident has taken place on the southern tarred end of the road that is having width of 6.3 metres of tarred portion. The evidence of PW-1, the injured which stands unimpeached would establish the fact with respect to the identity of the accused as well as to the question of the alleged rash and negligent driving. The findings are concurrent. I find no reason to deviate from the findings of the courts below. In the circumstances, the conviction is confirmed.

5. So far as the sentence is concerned, the counsel pleaded for leniency pointing out that the incident has taken place in 1995 and the revision petitioner/accused has been facing proceedings so far.

6. In the circumstances, the sentence imposed under section 338 IPC is modified to imprisonment till the rising of the court and to pay a compensation of Rs.10,000/- to PW-1 and in default to undergo simple imprisonment for two months. Revision petitioner is granted two months time form today onwards to pay the amount of compensation. No separate

sentence is awarded for the rest of the offence. He shall appear before the JFCM-III, Thrissur on 30-8-2007 to receive the sentence.

The Crl.R.P is disposed of accordingly.

K.R.UDAYABHANU,JUDGE.

Kvm/

K.R.UDAYABHANU, J.

CRL.R.P. 704/1999

ORDER

27-6-2007.